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MEMO ENDORSED

September 3, 2008

9/4/08 We are working on
this motion file
sorry for the
delay -
Ex. sever
granted
✓

BY FACSIMILE

Honorable Colleen McMahon
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

RE: *ESPN, Inc. v. Quiksilver, Inc.*: 08 Civ. 4222 (CM) (MHD): Extension of Discovery Period

Dear Judge McMahon:

We represent Plaintiff-Counterdefendant ESPN, Inc. ("ESPN"), and together with counsel for Defendant-Counterclaimant Quicksilver, Inc. ("Quiksilver") we write to respectfully seek an extension of the discovery period in this action.

The parties have been diligently engaged in the discovery process. Both ESPN and Quiksilver served discovery requests shortly after the Rule 26 meet and confer. The parties adopted your e-discovery procedures, and have been cooperating with one another in coordinating with their respective e-discovery liaisons, search term selections, and format delivery. These procedures, unfortunately, took far longer than what the parties anticipated, and although the document productions were due to each party in July, rolling productions have just begun and, due to the lack of documentary discovery, depositions have not yet been scheduled.

Additionally, several discovery disputes have arisen between the parties, and there are outstanding issues that require Judge Dolinger's attention. The parties have not been notified as of yet by Judge Dolinger's Chambers of a conference date, and those disputes are accordingly still outstanding. Other disputes between the parties also are outstanding, including Quiksilver's motion to transfer this action to the Central District of California, as well as ESPN's motion to dismiss Quiksilver's counterclaims.

Moreover, due to the nature of this action, at least ESPN's experts are conducting trademark confusion surveys, and due to the fact that document production has only just begun,

Honorable Colleen McMahon
September 3, 2008
Page 2

as well as the time-consuming nature of conducting the surveys, it is not possible for expert reports to be delivered in time for the current schedule.

Finally, the parties have been in continuous discussions to attempt to settle the case, and have scheduled a mediation for late September. Both parties are hopeful that a successful resolution of this action will be reached at that mediation.

The current schedule is as follows:

Deadline to amend pleadings: September 10, 2008;
Discovery cutoff: November 10, 2008;
Expert Reports for Party with Burden: September 12, 2008; and
Expert Reports for Party without Burden: October 12, 2008.

In light of the above factors, we respectfully request that these dates be amended as follows:

Deadline to amend pleadings: December 12, 2008;
Discovery cutoff: April 3, 2009;
Expert Reports for Party with Burden: January 9, 2009; and
Expert Reports for Party without Burden: March 10, 2009.

This is the first request for an extension of time from either party. We recognize that the Court does not routinely grant extensions, and we have therefore attempted to craft the revised schedule with sufficient time to complete all fact and expert discovery without the need for further extensions.

Respectfully submitted,



Tamar Y. Duvdevani

cc: Frank W. Ryan, Esq. (by e-mail)
Mark A. Finkelstein, Esq. (by e-mail)
Jennifer L. Barry, Esq. (by e-mail)